HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE

And
HON'BLE SHRI JUSTICE G.BHAVANI PRASAD

W.A.NO.423 OF 2006

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Between:

S.Prabhudas

..... Appellant

AND

Bar Council of A.P. rep by its

Secretary, High Court premises,

Hyderabad.

.....Respondent

::JUDGMENT::

Counsel for the Appellant : Sri D.Goverdhana Chary
Counsel for the Respondent : Smt.S.Nanda

Dated 24/04/2006

Per Sri G.S.Singhvi, CJ

This appeal is directed against order dated 4.4.2006 passed by the learned Single Judge in Writ Petition No.6396 of 2006, whereby he refused to interfere with the action of the Bar Council of Andhra Pradesh (for short 'the State Bar Council') to delete the name of the appellant from the electoral list prepared for the year 2006.

The appellant has been practising as an Advocate at Mangalagiri since 1989. His name was included in the preliminary voters list issued by the State Bar Council. The appellant is said to be desirous of contesting the elections to the State Bar Council and, therefore, he started canvassing. However, when the final voters list

was published, his name did not figure therein. On enquiry, he was told by the authorities of the State Bar Council that his name has not been included in the final list, because he did not comply with Rule 40 of the Bar Council of India Rules (for short 'the rules'), which makes it mandatory for every advocate to contribute to the Advocates Welfare Fund. He challenged the exclusion of his name from the voters list by filing petition under Article 226 of the Constitution of India. He pleaded that failure to contribute to the Advocates Welfare Fund is, by itself, not sufficient to disentitle him from contesting the election, and, in any case, his name could not have been excluded from the final voters list without giving him notice and opportunity of hearing.

Learned Single Judge analysed the provisions contained in Section IV-A of Chapter II of the Rules as also the rules made by the Bar Council of the State of Andhra Pradesh (for short 'the State Rules') with particular reference to Rule 3(j) and concluded that failure of the appellant to pay his contribution towards the Advocates Welfare Fund was rightly made basis for exclusion of his name from the voters list. In the opinion of the learned Single Judge, the ambit and scope of Rules 40 to 42 of the Rules framed by the Bar Council of India was different than Rule 3(j) of the State Bar Council and there was no need to hear the appellant before omitting his name from the final voters list.

We have heard Sri D. Goverdhana Chary, advocate for the appellant. We are in agreement with the learned Single Judge that the procedure prescribed under Rule 40 to 42 of the rules is not required to be followed before excluding the name of an advocate from the voters list. Rule 3 (j) of the rules framed by the State Bar Council postulates the consequence of an advocate's failure to make his contribution to the Advocates Welfare Fund. As against this, Rule 42 provides for suspension of the right to practice. The consequences envisaged in two rules are entirely different. Therefore, the requirement of show-cause notice and opportunity of hearing embodied in Rule 42 of the rules framed by the Bar Council of India cannot be read in Rule 3 (j) of the State Bar Council Rules, which lays down that an advocate who has not contributed to the Advocates Welfare Fund shall not be entitled to vote in the election.

The judgment of the Supreme Court in **Bar Council of Delhi v. Surjeet Singh** on which reliance has been placed by the learned counsel for the appellant does not, in any manner, help the cause of his client because in that case, the

Supreme Court approved the decision of the Delhi High Court, which had struck down Rule 3(j) of the Rules framed by the Bar Council of Delhi. In the present case, the appellant has not challenged the vires or constitutionality of Rule 3 (j) of the State Rules. Therefore, the learned Single Judge did not venture to examine that aspect of the matter and we also do not propose to undertake that exercise.

For the reasons stated above, the appeal is dismissed.

G.S.SINGHVI, CJ

Dt.24/4/2006

G.BHAVANI PRASAD, J

Msv/GRR / svs